

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DELPHINE GREEN,

Petitioner,

v.

CIVIL ACTION NO. 1:07CV55
CRIMINAL ACTION NO. 1:05CR102
(Judge Keeley)

UNITED STATES OF AMERICA,

Respondent.

ORDER REOPENING CASE

On April 19, 2007, pro se petitioner Delphine Green filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2255. On July 9, 2007, the petitioner filed an amended petition. On July 12, 2007, United States Magistrate Judge John S. Kaull entered a Report and Recommendation recommending that the Court deny petitioner's § 2255 motion and dismiss the case with prejudice.

The Report and Recommendation also specifically warned that Green's failure to object to the recommendation would result in the waiver of her appellate rights on this issue. Nevertheless, Green did not file any objections.

Consequently, on October 23, 2007, the Court adopted the Report and Recommendation in its entirety, denied Green's § 2255 motion, denied her amended motion and dismissed the case with prejudice.

On November 30, 2007, Green filed a motion to reopen this case. She asserts that she never received the report and recommendation. The docket does not reflect a dated return

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receipt. Consequently, for good cause shown, the Court GRANTS the motion (criminal dkt. no. 113 & civil dkt. no. 12), **VACATES** its earlier order (criminal dkt. no. 106 & civil dkt. no. 10) and **REOPENS** the case.

The Court reminds Green that she has ten (10) days from the receipt of this order, to file objections to the Report and Recommendation. She is once again specifically warned that her failure to object to the recommendation will result in the waiver of her appellate rights on this issue.¹

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the petitioner by certified mail, return receipt requested.

Dated: December 11, 2007.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

¹ Failure of the petitioner to object to the Report and Recommendation not only waives her appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).